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Malawi

The present report is a summary of 12 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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I. Information provided by the national human rights institution of the State under review accredited in full compliance with the Paris Principles

1. Malawi Human Rights Commission (MHRC) stated that Malawi accepted recommendations on law reform,[2] made at the Human Rights Council's Working Group on the Universal Periodic Review of Malawi on 1 November 2010 (2010 Review).[3] In this context, the Legal Education and Legal Practitioners Act was amended, creating a Legal Education Institute, which was yet to be operational; the Legal Aid Act was amended, resulting in the legal aid system being overhauled and in the establishment of a Legal Aid Bureau, which was yet to be fully operational; and The Gender Equality Act, 2013, came into force on 1 March, 2014. MHRC stated that The Marriage, Divorce and Family Relations Bill, which had been drafted in 2006, remained before the Law Commission for review. Review of the Witchcraft Act of 1911 by the Law Commission was delayed due to lack of funds while the Prisons Act was currently being reviewed.[4] The Access to information Bill and the HIV and AIDS Bill was yet to be enacted.[5]

2. Malawi was yet to extend a standing invitation to all special procedures of the Human Rights Council.

3. MHRC recalled that at the 2010 Review, Malawi received a recommendation on policing.[6] It stated that there were plans to decentralize the Police Service's Internal Affairs Unit to enable the investigation of complaints against the police. However, the Independent Complaints Commission, established pursuant to Section 128 of the Police Act, 2009, was yet to be operational. MHRC stated that the Malawi Police Training Manual on Human Rights was redrafted to enhance the focus on respect for human rights.[7]

4. MHRC stated that since the 2010 Review prison conditions have not improved. Prisons remained overcrowded and have poor sanitation and health facilities.[8]

5. MHRC stated that within the framework of securing international assistance in the alleviation of poverty, Malawi formulated a Development Cooperation Strategy. This Strategy shifted the focus from aid to development effectiveness. In 2012, the Government produced a Poverty Reduction Strategy Paper, designed to attain Malawi's long term development aspirations as reflected in Vision 2020. A Joint Strategic Plan for the Gender Sector was also developed. In June 2014, the Government pledged to increase efforts in sustainable economic growth in agriculture and food security by continuing to implement, with reforms, the Farm Input Subsidy Programme. The Government also undertook to increase efforts in Green Belt Irrigation Development to attain food and income security.[9]

6. MHRC stated that Parliament enacted the Child Care, Protection and Justice Act of 2010, which inter alia criminalised child trafficking and exploitation and improved the child justice system. However, there has been little progress in developing a national action plan for children.[10]

7. MHRC stated that the maternal mortality rate remained high. There was poor access to essential emergency obstetric care services, with only 2 percent of health facilities providing basic emergency obstetric care. Inadequate equipment drugs and supplies had compromised the quality of maternal and neonatal health care. To reverse this trend, the Government adopted initiatives including the Roadmap on Accelerated Reduction of Maternal and Neonatal deaths (2011-2016) and the National Sexual and Reproductive Health and Rights Strategy (2011-2016). Unsafe abortions significantly contributed to high maternal mortality and the abortion laws were currently being reviewed.[11]

8. MHRC stated that while Malawi rejected a recommendation to make primary education compulsory,[12] it enacted the Education Act in 2013 which guarantees compulsory, universal and free primary education.[13]

II. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

9. Joint Submission 1 (JS 1) recommended that Malawi ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.[14]

2. Constitutional and legislative framework

10. HRW (Human Rights Watch) stated that Malawi should incorporate the Rome Statute of the International Criminal Court into national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court; and to investigate and prosecute genocide, crimes against humanity and war crimes before national courts in accordance with international law.[15]

11. HRW stated that at the 2010 Review, Malawi indicated that it was committed to enacting the Marriage, Divorce and Family Relations Bill which would provide stronger protections from child marriages and forced marriage, and prescribe 18 years as the minimum marriage age for marriage. However, this Bill was yet to be enacted.[16] HRW recommended that Malawi take the necessary legislative steps to enact this Bill.[17] Centre for Reproductive Rights (CRR) made a similar recommendation, and further recommended an amendment to the Constitution to reflect a minimum age of 18 years for marriage.[18]

12. CRR stated that marital rape was not criminalized;[19] and recommended inter alia amending the Domestic Violence Act to include marital rape as a punishable offence.[20]

13. Joint Submission 3 (JS 3) stated that the Child Care, Protection and Justice Act of 2010 defined a child as a person below the age of 16 years. Persons between the ages of 16 to 18 years did not enjoy the rights and protections granted to children.[21]

14. Joint Submission 4 (JS 4) stated that the Access to Information Bill, drafted in 2003, was yet to be considered by the National Assembly.[22] It recommended the enactment of this Bill without further delay.[23]

15. Joint Submission 6 (JS 6) stated that Sections 50 (Seditious intention) and 51 (Seditious offences) of the Penal Code restricted the right to free expression.[24] It called for an amendment of those Sections of the Penal Code.[25]

16. JS 6 stated that libel constituted a criminal offense with a conviction carrying a sentence of imprisonment of up to two years, under Section 205 of the Penal Code. [26] JS 6 recommended decriminalization of libel and defamation.[27]

3. Institutional and human rights infrastructure and policy measures

17. JS 3 stated that national action plans focusing on specific areas in relation to children have been put in place, such as the National Action Plan for Orphans and Vulnerable Children. However, those individual national action plans did not offer a comprehensive, holistic and cross-sector coordination of the implementation of the Convention on the Rights of the Child and other related instruments.[28]

18. JS 4 stated that the Independent Complaints Commission established by section 128 of the Police Act, enacted in 2010, was yet to come into operation.[29] JS 4 recommended that Malawi ensure that the Commission is operationalised within a reasonable time; and that adequate financial resources are given to the Commission to enable it to discharge its functions effectively and efficiently.[30]

B. Cooperation with human rights mechanisms

Cooperation with special procedures

19. Joint Submission 2 (JS 2) recommended that Malawi extend a standing invitation to the Special Procedures Mandate Holders, and invite the Special Rapporteur on Human Rights Defenders, the Special Rapporteur on Freedom of Expression, and the Special Rapporteur on Freedom of Peaceful Assembly and Association.[31]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

20. JS 4 referred to recommendation 102.19,[32] which recommended measures, including legislation, to ensure the equality of women, and stated that the passage of the Gender Equality Bill in February 2013 was a milestone in that regard. This legislation has progressive provisions which, when fully implemented, will change the landscape in relation to the empowerment of women.[33]

21. HRW stated that while Malawi has taken some positive steps toward fulfilment of the gender equality pledges made at the 2010 Review, it failed to live up to most of them. Women's rights remained largely curtailed.[34]

22. JS 3 stated that children were not registered at birth which denied them of their national identities, put them in a situation of statelessness, and deprived them of their basic rights.[35]

2. Right to life, liberty and security of the person

23. JS 1 stated that Malawi had justified its continued retention of the death penalty on the basis of public opinion.[36] JS 1 recommended that Malawi abolish the death penalty and, in the interim, impose a moratorium on the execution of the death penalty; commute current death sentences to sentences that are fair, appropriate and are in respect of international human rights standards; and conduct resentencing hearings for all concerned persons.[37]

24. JS 4 referred to recommendation 102.21,[38] relating to torture, ill-treatment and excessive use of force by law enforcement personnel, and stated that Malawi took a number of measures to implement this recommendation, such as trainings for law enforcement personnel, the establishment of the Internal Affairs Unit within the Malawi Police Service and Malawi Prisons, and legal and policy reforms.[39]

25. JS 4 stated that, although Malawi was a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, other than a general prohibition in the Constitution, torture was not a criminal offence. While persons suspected of torture may be prosecuted under other provisions in the Penal Code, torture was a more serious offence than either endangering life or health or indeed assaults and should be separately sanctioned.[40] JS 4 recommended criminalizing torture as a separate crime.[41]

26. JS 4 stated that in in July 2011, the Malawi Police Service used disproportionate and lethal force against persons who had been peacefully demonstrating against serious violations of human rights, attacks on human rights defenders, lack of fuel and foreign exchange, and the high cost of living. Twenty demonstrators were fatally shot by police officers. The Human Rights Commission and a Commission of Inquiry conducted investigations and concluded, among other things, that the police officers used excessive force against unarmed demonstrators.[42] JS 6 stated that Malawi should expedite the prosecutions of all persons suspected of human rights violations, particularly those identified by the Commission of Inquiry.[43]

27. JS 4 referred to recommendations to 102.2, 102.26, 102.34 and 102.38,[44] relating to prison conditions and the penitentiary system, and commended Malawi for efforts undertaken to improve prison conditions.[45] However, prison congestion remained a challenge. There was no increase in financial resource allocation to the penitentiary system in line with the increasing prison population. Construction of the proposed new prisons has not commenced.[46]

28. JS1 stated that the conditions under which prisoners on death row were incarcerated constituted cruel and inhumane treatment. All prisoners on death row were kept at Zomba Central Prison. There was overcrowding which required prisoners to sleep in shifts and in rows on the floor.[47]

29. JS1 stated that unsanitary conditions, lack of hygiene and food shortages resulted in death and widespread sickness in prison. There were high rates of tuberculosis, HIV and pneumonia among the prison population.[48]

30. Joint Submission 7 (JS 7) referred to recommendation 102.27,[49] which recommended "a public awareness campaign at the highest political level, to strengthen the implementation of the 2006 Prevention of the Domestic Violence Act", and stated that the Government has conducted public awareness campaigns, mainly during the annual campaign, "16 Days of Activism against Gender Violence". However, those campaigns did not involve leaders at the highest political levels.[50]

31. JS 7 referred to recommendation 102.28,[51] which called for "effective measures to address the problems of impunity and violence against women and girls", and stated that no such measures were put in place.[52]

32. JS 7 stated that the implementation of the Prevention of Domestic Violence Act was weak. Violence against women and attitudes and stereotypes that perpetuated discriminatory practices, were rampant in Malawi.[53]

33. CRR stated that violence against women was prevalent and that there was inadequate available services and protection for victims.[54]

34. HRW stated that victims of child marriage faced many barriers in getting help from the authorities. Many girls and women did not know of their rights. They did not know where to seek assistance, and went to their families or traditional authorities, who often failed them. The absence of clear legislation meant that most matters relating to marriage, divorce, maintenance payments, and domestic violence were handled through customary procedures that discriminated against women and therefore failed to provide adequate redress to survivors of gender-based violence.[55] HRW recommended that Malawi create a national action plan to combat child marriage, with input from women's and children's rights groups, health professionals, and other service providers. The implementation of the plan should be coordinated among all relevant ministries. Malawi should ensure the allocation of sufficient resources to implement the plan. HRW also recommended regular training for police and prosecutors on their responsibilities to investigate and prosecute violence against women, including child marriage, under the applicable law.[56]

35. Global Initiative to End All Corporal Punishment of Children (GIEACPC) stated that during the 2010 Review, Malawi received a recommendation to inter alia "enact legislation to ensure the complete prohibition of corporal punishment."[57] However, Malawi did not respond to this aspect of the recommendation.[58] GIEACPC stated that while corporal punishment of children was unlawful in schools, the penal system and in state provided alternative care settings and day care, it was not prohibited in the home and in private alternative care and in private day care settings.[59]

36. GIEACPC stated that since the 2010 Review, Malawi enacted the Child Care, Protection and Justice Act 2010, but the legislation did not prohibit corporal punishment. It added that in reporting to the Human Rights Committee in 2014, Malawi had stated that article 19 of the Constitution prohibited corporal punishment, including in the home and alternative care settings.[60] However, that provision specifically prohibited corporal punishment "in connection with any judicial proceedings or any other proceedings before any organ of the state". GIEACPC stated that it was difficult to see how article 19 of the Constitution could be interpreted as prohibiting corporal punishment by parents in childrearing and in other private and non-Government forms of care.[61]

37. GIEACPC stated that a Marriage, Divorce and Family Relations Bill was under discussion, which provided immediate opportunities for ensuring that children are legally protected from corporal punishment in all settings, including the home.[62]

38. JS 3 stated that children were trafficked within Malawi and to neighbouring countries for the purposes of child labour and prostitution. In Malawi, trafficking of children was influenced by the demand for cheap labour on farms and estates.[63]

39. JS 4 referred to recommendations 102.31,[64] and 102.32,[65] on human trafficking, which had been supported by Malawi,[66] and stated that there was still no comprehensive legislation on human trafficking. The Trafficking in Persons Bill was yet to be considered by the National Assembly. This Bill comprehensively addresses the recommendations.[67]

3. Administration of justice, including impunity, and the rule of law

40. JS1 stated that pre-trial detention was excessively long, depriving incarcerated persons of the right to a trial within a reasonable time.[68] There was an insufficient number of prosecutors and judges which contributed to a slow judicial process and a backlog of cases.[69] Access to appropriate legal representation is limited due to a lack of public defence attorneys and legal aid.[70] Legal representation was provided to indigent persons on trial for murder, however the lawyers provided lacked the experience to work on such cases and, given their case load, there was insufficient time for preparation. There was also a lack of legal aid resources for pre-trial investigations and no funding was provided to identify and locate potential witnesses and to gather evidence.[71]

41. JS 4 stated that Malawi had taken legislative measures to reduce the time that a suspect is held on remand. The Criminal Procedure and Evidence Code (Amendment) Act, has introduced pre-trial custody time limits which range from 30 days to a maximum of 90 days in very serious offences such as treason and murder. However, many accused were unaware of their right to be released from detention at the expiry of the prescribed pre-trial custody time period, if the authorities do not prosecute. Many accused cannot afford the services of private legal practitioners and the Legal Aid Bureau was yet to be operational.[72]

42. JS 3 stated that the Child Care Protection and Justice Act 2010 was not effectively implemented across the country. Only a few members of the child justice institutions such as police officers, social welfare officers and magistrates had the knowledge and skills to enforce this legislation. Despite the presence of child magistrates, there were instances when cases in the Child Justice Courts were heard in open court.[73]

43. JS 3 stated that despite a comprehensive child justice system being in place through the National Child Justice Forum, justice on issues of children remained a challenge. Notable weaknesses included delay in concluding cases.[74] JS 3 stated that there was weak enforcement of laws, and numerous reported cases of violence against children remained un-concluded. Also, alleged perpetrators were easily released on bail.[75]

44. JS 3 stated that the minimum age of criminal responsibility for children was 10 years, which was not in line with international and regional standards.[76]

4. Right to privacy

45. HRW stated that the Penal Code criminalized consensual sexual conduct between adults of the same sex and violated the right to privacy, non-discrimination and other rights under international law.[77] JS 4 stated that the relevant provisions of the Penal Code have been referred to the Law Commission for review, but that the Law Commission was yet to take any significant action towards repealing those provisions.[78] HRW recommended that Malawi repeal those provisions of the criminal code that criminalize consensual, adult same-sex conduct and provide adequate protection to LGBT persons.[79] JS 4 recommended that Malawi take measures to explicitly recognise and protect against discrimination on the basis of real or perceived sexual orientation or gender identity in its laws.[80]

5. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

46. JS 6 stated that Malawi accepted recommendations 102.40 and 102.41 to bring national legislation and practice in line with international freedom of expression obligations, and that the Government has taken a number of positive actions to advance protections for the right to freedom of expression,[81] including by repealing Section 46 of the Penal Code (Amendment) Act which empowered the Minister of Information to ban newspapers.[82] However, concerns for free expression remained, in light of the on-going harassment of journalists, delays in the adoption of the Access to Information Bill and the potential to limit freedom of expression through the draft E-Bill (art. 9 and 19), the monopoly of media coverage, and the delays in the judicial process.[83]

47. JS 4 referred to recommendation 102.40,[84] on the press freedom, and stated that Malawi had made strides in ensuring respect for the freedom of the press.[85] Malawi should also be commended for adopting a policy on access to information in January 2014.[86]

48. JS 2 stated that laws such as the Protected Flag, Emblems, and Names Act (1967) and Printed Publications Act (1947) restrict the freedoms of opinion and expression and were used to target journalists;[87] and cited a number of cases in this regard.[88]

49. JS 6 stated that access to Government information remained a considerable challenge for journalists.[89] It called on Malawi to expedite the adoption of the Access to Information Bill and ensure that its provisions and those of the "E-Bill" are in conformity with Malawi's international human rights obligations, including those obligations under the International Covenant on Civil and Political Rights.[90]

50. JS 6 stated that 15 individuals, who had reported on Malawi's human rights situation at 16th session of the United Nations Human Rights Council on 7 March 2011, were threatened with reprisals for cooperating with the United Nations.[91] JS 6 also detailed other incidences of harassment and intimidation of journalists and human rights defenders.[92] JS 6 called on Malawi to protect journalists and human rights defenders from harassment and arbitrary arrests, to prosecute those responsible and to compensate the victims.[93]

51. JS 6 stated that it had been especially concerned by claims that the Government monitored the social network accounts of private citizens for statements that display

hostility towards and defamation of the President.[94] It stated that Malawi should ensure that surveillance of communications is prescribed by law, and is necessary and proportionate, while protecting the right to privacy.[95]

52. JS 2 expressed concerns about the environment in which human rights defenders and civil society activists and journalists operated, particularly since the 2010 Review. It stated that human rights defenders, civil society activists and journalists critical of Government policies and actions have been intimidated, threatened and in certain instances killed, citing a number of incidences in this regard.[96] Officials of the ruling party issued public statements warning activists and journalists to stop criticising the Government or face reprisals. In a climate of fear and intimidation, some journalists, particularly those working for the state media, resorted to self-censorship for fear of reprisals.[97] JS 2 recommended full investigation of all cases of threats, intimidation and harassment of representatives of civil society and human rights defenders with a view to bringing the perpetrators to justice. It also recommended that the Authorities guarantee the physical and psychological integrity of all civil society activists and human rights defenders; ensure adherence to the provisions of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, particularly Article 12; and also guarantee the freedom of human rights defenders to submit information on the state of human rights to human rights bodies and participate in processes set-up by United Nations Special Procedures without fear of intimidation or harassment by the Government.[98]

53. JS 2 expressed concern about restrictions on freedom of assembly and the use of violence to counter peaceful protests. Freedom of assembly was particularly threatened during protests against governance failures and the fuel crisis in 2011. Protests were violently dispersed leading to the deaths of 20 protesters and several others injured. Planned demonstrations were banned following injunctions sought by members of the ruling party.[99] JS 2 stated that the authorities systematically dispersed peaceful protests.[100] It recommended equipping the security forces in charge of crowd control with non-lethal weapons and providing them with training on the humane means of crowd control as well as on the United Nations Basic Principles on the use of Force and Firearms.[101]

54. JS 4 referred to recommendation 102.43,[102] on increasing the representation of women in decision-making processes, and stated that not much had been achieved in this regard. In the 2010 Review, the Government had reported on a policy in place to increase the number of women in positions of power and influence. A number of high profile offices occupied by women had also been cited. However, those gains have since been lost. JS 4 cited, by way of an example, a decrease in the number of women members of parliament and councillors since the 2010 Review.[103]

55. JS 6 stated that the state media gave much more coverage to the ruling party when compared to that of opposition parties.[104] Malawi should ensure that state-owned media grant equitable coverage to all political parties during election periods in accordance with the law.[105] Also, the Malawi Communications Regulatory Authority, which was funded by the Government and led by a presidential appointee,[106] must operate with independence.[107]

6. Right to work and to just and favourable conditions of work

56. JS 7 stated that there was abuse of power by the police over sex workers in the name of the law and that sex workers lived in constant fear of the police.[108] It stated that Malawi should repeal the Penal Code provision on 'Rogue and Vagabond' to avoid the archaic nature and vague language that is prone to wide interpretation and abuse by the police. Malawi should also ensure that all the aspects of voluntary sex work, including 'Living on the proceeds of sex work' are decriminalized.[109]

7. Right to health

57. CRR stated that despite the efforts by Malawi, the maternal mortality ratio has worsened, raising from 460 in 2010 to 510 maternal deaths per 100,000 live births in 2013, which was higher than the target of 155 set by the Millennium Development Goals.[110] It noted that during the 2010 Review, Malawi received a recommendation to "intensify measures to address the problem of maternal mortality",[111] which was rejected.[112]

58. CRR stated that unsafe abortion was a leading cause of maternal mortality.[113] It noted that Malawi had restrictive abortion laws and stated that Malawi acknowledged the need to examine the laws on abortion in its 2013 submission to the African Commission on Human and Peoples' Rights.[114] Malawi also ratified the Maputo Protocol, which guarantees the right to legal abortion in cases of rape, incest and forced marriage, in addition to life and health grounds. However, the Government was yet to comply with those obligations and reform the laws of abortion.[115]

59. Joint Submission 5 (JS 5) applauded the Government for seeking review of the abortion law but noted that until the law is revised rates of death and injury from unsafe abortion will remain high.[116] It stated that a revised abortion law should not contain barriers that will hinder access to safe abortions. In particular, the revised law: (a) must not limit the type of provider that can provide abortions, as abortions can be provided by a range of trained health care providers, including nurses and mid-wives; (b) must take into account the current health care delivery system and ensure that local clinics, are not precluded from providing abortion services; and (c) must ensure that adolescent girls are able to consent to confidential abortion care, without parental authorization.[117]

60. CRR stated maternal deaths were caused by poor access to maternal health care and limited knowledge among the population of warning signs of obstetric complications.[118] Maternal deaths occurred during delivery or in the immediate post-partum period.[119] CRR recommended that Malawi take positive measures to reduce maternal mortality and morbidity, including: (a) by increasing the availability and accessibility of ante-natal, delivery and post-natal services, with attention to the needs of marginalized populations; (b) by increasing the number of skilled health personnel and provision of skilled attendance, including in rural areas; and (c) by improving the tracking and monitoring of the incidence and causes of maternal mortality and morbidity.[120]

61. CRR stated that it was difficult for young people to access contraceptives because of the stigma associated with extramarital sexual activities and the personal beliefs of health care providers.[121] It recommended that Malawi increase knowledge of and access to contraceptive methods, including emergency contraception, specifically targeting vulnerable populations, and also provides training programmes for reproductive healthcare providers.[122]

62. JS 7 referred to recommendation 102.56,[123] which related to "efforts aimed at eliminating HIV and AIDS", and stated that Malawi has strengthened efforts in this regard. A multi-sectorial approach had been adopted with all the sectors (public, private and civil society) having a role in the HIV and AIDS national response. The Government has also strengthened the National AIDS Commission as a national coordinating body and has identified a coordinating body for each of the sectors to ensure a well-coordinated national response. A National Strategic Plan has been adopted, as well as a National Monitoring and Evaluation Plan for measuring the country's performance in the national HIV and AIDS response.[124] JS 7 stated that the HIV and AIDS response was not sustainable long-term, as over 90 percent of the resources come from donors. It called for Malawi to increase its domestic funding.[125]

63. HRW stated that the anti-gay laws have nefarious consequences, including restricting access to health services.[126] It recommended that Malawi ensure that the LGBT population is included in Government HIV prevention and treatment programs.[127]

64. JS 7 stated that the Prevention of HIV Transmission from Mother to Child programme did not take into consideration the needs of female sex workers and unmarried women.[128] Anti-retroviral therapy adherence was low among sex workers, due to them being mobile when working. Also, sex workers missed taking their antiretroviral treatment when arrested and detained by the police.[129]

65. JS 7 stated that health workers violated sex workers' rights to equality, non-discrimination and health by not treating them in a confidential, respectful and non-judgmental manner, sometimes actually denying them health services.[130] Malawi should put in place effective mechanisms, such as training for health care workers on human rights as well as feedback mechanisms, to ensure that the delivery of public health services is done in a confidential, respectful and non-judgmental manner.[131]

8. Right to education

66. Office International de l'Enseignement Catholique (OIEC) referred to recommendation 102.60,[132] which related to making "education one of its top priorities" and for which Malawi had expressed support;[133] and stated that education was yet to become a priority.[134] Learning conditions remained very poor, especially in primary schools. There was a shortage of text books and thousands of pupils sat on the floor because of insufficient desks and chairs. Teachers were unable to teach effectively because of overcrowded classrooms. School uniforms were expensive for the average family.[135] OIEC made recommendations including increasing the budget for education in order to finance teaching and learning materials, to build more classrooms, to increase the number of teachers and to provide them with decent salaries. It also recommended including all stakeholders in planning and developing the curriculum; abolishing the requirement of school uniform in primary schools; providing adequate text books for all subjects; and increasing grants to secondary schools, schools for deaf children, as well as non-profit private schools.[136]

67. JS 3 commended the Government for introducing a school feeding programme. However, the programme was yet to be rolled out in all schools and no steps had been taken to appropriate funds in the national budget for this purpose.[137]

9. Cultural rights

68. JS 6 stated that there were several indigenous languages spoken in Malawi including Chichewa, Chitumbuka, Chiyawo, Chilhomwe, Chisena, Kyangonde, Chitonga and Chilambiya.[138] The 2013 Education Act empowered the Minister of Education to choose any language as a medium of instruction in schools. The Minister determined that English would be the sole language of instruction.[139] JS 6 called on Malawi to take measures in the field of education to protect and promote linguistic diversity and ensure that children are provided with the opportunity to access mother language education.[140]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil Society:

Individual Submissions:

CRR	Centre for Reproductive Rights, New York, United States of America;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland;
HRW	Human Rights Watch, Geneva, Switzerland;
OIEC	Office International de l'Enseignement Catholique, Bruxelles, Belgium.

Joint Submissions:

JS 1	The Advocates for Human Rights, Minneapolis, United States of America; and World Coalition against the Death Penalty, Montreuil, France (Joint Submission 1);
JS 2	CIVICUS: World Alliance for Citizen participation, Johannesburg, South Africa Centre for the Development of People, Lilongwe, Malawi; and Centre for Human Rights and Rehabilitation, Lilongwe, Malawi (Joint Submission 2);
JS 3	The NGO Coalition on Child Rights comprising of: NGO Gender Coordination Network (NGO GCN), Water and Sanitation network (WESN), Malawi Human Rights Youth Network (MHRYN), Human Rights Consultative Committee (HRCC), Network for Orphaned and Vulnerable Children (NOVOC), Malawi Health Equity Network, Malawi Economic Justice Network (MEJN), and the Civil Society Education Network (CSEC) (Joint Submission 3);
JS 4	Centre for the Development of People (CEDEP), the Centre for Human Rights and Rehabilitation (CHRR) and International Gay and Lesbian Human Rights Commission (IGLHRC), (Joint submission 4);
JS 5	Ipas Malawi and Coalition for the Prevention of Unsafe Abortions, Lilongwe, Malawi (Joint submission 5);
JS 6	PEN International, London, United Kingdom of Great Britain and Northern Ireland; and Malawi PEN, Malawi (Joint Submission 6);
JS 7	Safari Mbewe and Sexual Rights Initiative, Ottawa, Canada (Joint Submission 7).

National human rights institution

MHRC	Malawi Human Rights Commission, Malawi.

[2] See A/HRC/16/4, p. 13, para. 102, recommendations 102.1 to 102.5.

[3] See A/HRC/16/4.

[4] MHRC, para. 2.1.

[5] MHRC, para. 2.11 and 2.14.

[6] See recommendation 102.21 which enjoyed the support of Malawi (A/HRC/16/4, pp. 13 – 18, para. 102).

[7] MHRC, para. 2.2.

[8] MHRC, para. 2.3.

[9] MHRC, para. 2.4.

[10] MHRC, para. 2.5.

[11] MHRC, para. 2.6.

[12] See recommendation 105.33 which did not enjoy the support of Malawi (A/HRC/16/4, pp. 19 – 22, para. 105).

[13] MHRC, para. 2.10.

[14] JS 1, p. 9, para. 22.

[15] HRW, p. 3.

[16] HRW, p. 1.

[17] HRW, p. 2.

[18] CRR, p. 6.
[19] CRR, p. 5.
[20] CRR, p. 6.
[21] JS 3, p. 4.
[22] JS 4, p. 16, para. 2.5.4.
[23] JS 4, p. 19, para. 5.1.1.
[24] JS 6, para. 6.
[25] JS 6, Recommendations.
[26] JS 6, para. 9.
[27] JS 6, Recommendations.
[28] JS 3, p. 5.
[29] JS 4, p. 9, para. 2.1.3.
[30] JS 4, p. 18, para. 5.5.
[31] JS 2, p. 12, para. 5.4.
[32] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[33] JS 4, pp. 13-14, paras. 2.4.1 and 2.4.3.
[34] HRW, p. 1.
[35] JS 3, p. 5.
[36] JS 1, p. 8, para. 20.
[37] JS1, p. 9, para. 22.
[38] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[39] JS 4, p. 7, paras. 2.1.1 and 2.1.2.
[40] JS 4, pp. 7-9, para. 2.1.2.
[41] JS 4, p. 18, para. 5.3.
[42] JS 4, para. 2.1.2, pp. 7-8.
[43] JS 6, Recommendations.
[44] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[45] JS 4, pp. 9-10, paras. 2.2.1 and 2.2.2.
[46] JS 4, p. 10, para. 2.2.2.
[47] JS1, pp. 6-7, paras. 14 and 15.
[48] JS1, p. 7, para. 16.
[49] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[50] JS 7, p. 2, para. 5.4.
[51] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[52] JS 7, p. 2, para 5.5.
[53] JS 7, p. 2, para. 5.4.
[54] CRR, p. 4.
[55] HRW, p. 1.
[56] HRW, p. 2.
[57] GIEACPC, p. 1, para. 1.1, referring to Recommendation 104(22) in A/HRC/16/4.
[58] GIEACPC, p. 1, para. 1.2. See also A/HRC/16/L.41, p. 64, para. 388.
[59] GIECAPC, p. 2, paras. 2.1 – 2.3.
[60] GIEACPC, p. 2, para. 1.3, referring to CCPR/C/MWI/Q/1/Add.2, Reply to list of issues, paras. 45 and 46 (26 June 2014).
[61] GIEACPC, p. 2, para. 1.3.
[62] GIEACPC, p. 1.4.
[63] JS 3, pp. 8-9.
[64] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[65] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[66] See A/HRC/16/4, p. 13, para. 102.
[67] JS 4, p. 13, para. 2.3.4.
[68] JS 1, p. 3, para. 7.
[69] JS1, p. 5, paras 11 and 12.
[70] JS 1, p. 3, para. 8.
[71] JS1, pp. 3-4, paras. 8 and 9.
[72] JS 4, pp. 10- 11, para. 2.2.3.

[73] JS 3, p. 7.
[74] JS 3, p. 8.
[75] JS 3, p. 6.
[76] JS 3, p. 7.
[77] HRW, p. 2.
[78] JS 4, p. 5, para. 1.6.
[79] HRW, p. 2.
[80] JS 4, p. 18, para. 5.1.
[81] JS 6, paras. 2 and 3.
[82] JS 6, para. 3.
[83] JS 6, para. 4.
[84] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[85] JS 4, p. 15, para. 2.5.2.
[86] JS 4, p. 16, para. 2.5.4.
[87] JS 2, p. 6, para. 3.1.
[88] *See* JS 2, pp. 7-9, paras. 3.2 – 3.10.
[89] JS 6, para. 10.
[90] JS 6, Recommendations.
[91] JS 6, para. 15.
[92] *See* JS 6, paras. 16 – 21.
[93] JS 6, Recommendations.
[94] JS 6, para. 23.
[95] JS 6, Recommendations.
[96] *See* JS 2, pp. 4-6, paras. 2.2 – 2.8.
[97] JS 2, p. 3, para. 1.6.
[98] JS 2, p. 11, para. 5.2.
[99] JS 2, p. 3, para. 1.7.
[100] JS 2, p. 9, para. 4.1.
[101] JS 2, p. 11, para. 5.3.
[102] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[103] JS 4, p. 15, para. 2.4.5.
[104] JS 6, para. 14.
[105] JS 6, para. 14.
[106] JS 6, paras. 12 and 13.
[107] JS 6, Recommendations.
[108] JS 7, p. 2, paras. 9 and 10.
[109] JS 7, p. 4, paras. 21 and 22.
[110] CRR, p. 2.
[111] CRR, p. 2. CRR referred to Recommendation 105.32 which did not enjoy the support of Malawi (See A/HRC/16/4, pp.19- 21, para. 105.32).
[112] CRR, p. 4.
[113] CRR, p. 4.
[114] CRR, p. 4
[115] CRR, p. 4.
[116] JS 5, para. 2.
[117] JS 5, paras. 10 – 13.
[118] CRR, p. 2.
[119] CRR, p. 2.
[120] CRR, p. 6.
[121] CRR, p. 3.
[122] CRR, p. 6.
[123] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[124] JS 7, p. 1, para. 5.1.
[125] JS 7, p. 1, para. 5.1.
[126] HRW, p. 2.
[127] HRW, p. 2

[128] JS 7, p. 3, para. 12. JS 7 made a recommendation. (p. 4, para. 24).
[129] HRW, p. 1. JS 7, p. 3, para. 14. JS 7 made a recommendation. (p. 4, para. 25).
[130] JS 7, p. 3, para. 11.
[131] JS 7, p. 4, para. 23.
[132] This recommendation enjoyed the support of Malawi (See A/HRC/16/4, pp. 13 – 18, para. 102).
[133] See A/HRC/16/4, p. 13, para. 102.
[134] OIEC, p. 2, para. 1.
[135] OIEC, p. 3, para. 2.
[136] OIEC, p. 4.
[137] JS 3, p. 10.
[138] JS 6, para. 29.
[139] JS 6, para. 30.
[140] JS 6, Recommendations.